

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

**EDWARD J. NICHOLAS,**

**Plaintiff,**

**v.**

**JEFFREY B. ENGLE, et al.,**

**Defendants.**

:  
:  
:  
:  
:  
:  
:  
:  
:

**CIVIL NO. 4:CV-06-1851**

**(Judge Caputo)**

**M E M O R A N D U M**

**I. Background.**

Plaintiff, Edward J. Nicholas, an inmate at the State Correctional Institution in Albion, Pennsylvania, commenced this action by filing a *pro se* Civil Rights Complaint under the provisions of 42 U.S.C. § 1983. Plaintiff also filed a Motion for Leave to Proceed *in forma pauperis* (Doc. 5). The instant Complaint is among a string of civil actions by Plaintiff challenging alleged improprieties in his criminal proceedings in the Dauphin County, Pennsylvania, Court of Common Pleas, criminal docket # 3685 of 1997 ("3685 cd 97"). Plaintiff alleges false arrest, malicious prosecution, lack of jurisdiction, legal malpractice, abuse of process, business conspiracy, false imprisonment, misrepresentations/unlawful restraints, improper issuance of search warrant, jury rigging, witness tampering, fabrication of evidence, fraudulent transfers, obstruction of justice, corruption, retaliation, failure to intervene, delay of process, reckless and intentional infliction of harm, wrongful attachments or garnishments, deprivation of civil rights, dereliction of duty by counsel, supervisory liability, and failure to protect. (Doc. 1 at 1-3.). Plaintiff seeks criminal prosecution of Defendants, costs of suit, damages in the amount of \$ 300,000,000.00, and injunctive relief to prevent further abuse and retaliation. For the reasons that follow, the

Complaint will be dismissed, without prejudice, pursuant to 28 U.S.C. § 1915(g), and the Motion to Proceed *in forma pauperis* will be denied.

**II. Discussion.**

Under the provisions of 28 U.S.C. § 1915(g), a federal civil action by a prisoner proceeding *in forma pauperis* is barred if he or she has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury. 28 U.S.C. § 1915(g).

Since the beginning of this year, Plaintiff has filed three (3) previous civil rights actions which were dismissed by this Court on ground that they were frivolous. See *Nicholas v. Evans*, Civil No. 4:06-CV-1414 (M.D. Pa. Aug. 21, 2006) (Jones, J.); *Nicholas v. Evans*, Civil No. 4:06-CV-1478 (M.D. Pa. Aug. 21, 2006) (Jones, J.); *Nicholas v. Evans*, Civil No. 4:06-CV-1541 (M.D. Pa. Oct. 3, 2006) (Caputo, J.). All of these cases were commenced by Plaintiff while he was incarcerated. Plaintiff's instant allegations relate to claims of impropriety in his preliminary hearing, trial, conviction, and sentence in 3685 cd 97. There is no allegation or indication that this inmate is in danger of imminent serious physical injury. Thus, the above-captioned action is barred, and it will be dismissed under § 1915(g). An appropriate Order follows.

Dated: October 5, 2006.

/s/ A. Richard Caputo  
A. RICHARD CAPUTO  
United States District Judge

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

EDWARD J. NICHOLAS,

Plaintiff,

v.

JEFFREY B. ENGLE, *et al.*,

Defendants.

:  
:  
:  
:  
:  
:  
:  
:  
:  
:

CIVIL NO. 4:CV-06-1851

(Judge Caputo)

**ORDER**

AND NOW, THIS 5<sup>th</sup> DAY OF OCTOBER, 2006, in accordance with the foregoing Memorandum, **IT IS HEREBY ORDERED THAT:**

1. Plaintiff's Motion for Leave to Proceed *in forma pauperis* (Doc. 5) is **DENIED.**
2. Plaintiff's Complaint (Doc. 1) is **DISMISSED**, without prejudice, pursuant to the provisions of 28 U.S.C. § 1915(g).
3. The Clerk of Court is directed to close this case.
4. Any appeal taken from this Order will be deemed frivolous, without probable cause, and not taken in good faith. See 28 U.S.C. § 1915(a)(3).

/s/ A. Richard Caputo  
A. RICHARD CAPUTO  
United States District Judge